

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6900

Emergency Petition of OneStar Long Distance, Inc.)	
For an Order Directing Verizon Vermont to Cease)	Emergency Hearing
and Desist from Disconnecting Service)	held at
	Montpelier, Vermont
	October 29, 2003

Order entered: 11/10/2003

PRESENT: John D. Burke, Esq., Board Member

APPEARANCES: Ami Larrison, Director of Regulatory Affairs
for OneStar Long Distance, Inc.

Linda Ricci, Esq.
for Verizon New England Inc., d/b/a Verizon Vermont

June Tierney, Esq.
for Vermont Department of Public Service

REPORT AND ORDER

I. INTRODUCTION

In this proposal for decision, I recommend that the Public Service Board approve a settlement agreement ("Agreement"), that was read into the record on October 29, 2003, between OneStar Long Distance, Inc. ("OneStar"), Verizon New England, Inc., d/b/a Verizon Vermont ("Verizon") and the Vermont Department of Public Service ("the Department") (collectively "the Parties"). Approval of the Agreement will resolve the issues in this case, provide a reasonable schedule for OneStar's termination of local service in Vermont, and ensure affected customers are given timely notice.

II. BACKGROUND

On October 8, 2003, Verizon sent a letter to the Vermont Public Service Board ("the Board"), OneStar and the Department stating that Verizon was taking action to enforce its right to terminate service to OneStar for cause resulting from OneStar's repeated payment defaults, that

such service termination right had been available to Verizon since September 22, 2003, and that Verizon had deferred such action to date on the understanding that OneStar intended to provide advance notice to its customers of its service discontinuance. On October 23, 2003, Verizon sent a second letter to the Board, OneStar and the Department stating that termination of Verizon local service to OneStar would begin on November 7, 2003. On October 24, 2003, OneStar filed a petition with the Board seeking an emergency order directing Verizon to cease and desist from disconnecting service on November 7, 2003. On October 27, 2003, the Department sent a letter to the Board expressing concern about the public safety implications attendant to a disconnection of OneStar's service to consumers without affording these customers adequate notice and opportunity to arrange for alternative service before November 7, 2003. The Department also asked the Board to schedule an emergency hearing.

The Board opened this docket to consider OneStar's position. At 3:30 p.m. on October 29, 2003, an emergency hearing was convened by Board member John Burke, acting as Hearing Officer. The Hearing Officer subsequently converted the hearing into a status conference to afford the Parties an opportunity to discuss an alternative resolution of the matter. At that time, the Parties reached agreement on a settlement which I then accepted. The terms of the verbal agreement are described below.

III. AGREEMENT

1. The Department will work with OneStar to draft a notice (the "First Notice") to all local OneStar customers in Vermont announcing that their OneStar service will be discontinued on November 24, 2003. Verizon will review the draft First Notice and will provide the Department with its comments, if any. The Department shall have the discretion to decide whether or not to modify the First Notice to reflect some, all or none of Verizon's comments.

2. The Department shall approve a final version of the First Notice. At its own expense, OneStar shall prepare, address and supply postage for copies of the finalized First Notice for first class mailing to all of its Vermont customers and shall forward these copies by Federal Express on October 31, 2003, to the Department. The Department shall mail the First Notices to OneStar's Vermont customers on November 3, 2003.

3. The Department shall work with OneStar to draft a second Notice ("the Second Notice") to all local OneStar customers in Vermont reminding them that their OneStar service will be shut off on November 24, 2003. Verizon will review the draft Second Notice and will provide the Department with its comments, if any. The Department shall have the discretion to decide whether or not to modify the Second Notice to reflect some, all or none of Verizon's comments.

4. The Department shall approve a final version of the Second Notice no later than close of business on November 6, 2003. At its own expense, OneStar shall prepare and address copies of the finalized Second Notice for first class mailing to all of its Vermont customers and shall forward these copies by Federal Express on November 7, 2003, to the Department. The Department shall mail the Second Notices to OneStar's Vermont customers on November 10, 2003.

5. Verizon, in order to eliminate the further delay and expense that would result from the Department's announced decision to file a motion for a restraining order against OneStar service termination on November 7, 2003, and without concession that it could be lawfully restrained in the exercise of its contract rights, will defer discontinuation of UNE-P and resale services to OneStar until November 24, 2003, but will be free to discontinue such services any time on (or after) November 24, 2003.

6. By virtue of the above-described notice schedule, OneStar's consumers will be deemed to have received adequate notice under the circumstances of this case of the impending termination in advance of actual termination on November 24, 2003.

7. The Parties agree to work cooperatively to effectuate OneStar's orderly exit from the Vermont local telecommunications market.

8. The Parties agree that the MOU shall not preclude Verizon from pursuing any claims it may have for non-payment against OneStar in a different proceeding before a court of competent jurisdiction. In the event an unforeseen, material change in circumstances, the Department further reserves the right to take action pursuant to its statutory charge to protect the public interest.

9. The Parties agree that in the event of a conflict between the terms stated in the MOU and the final transcript of the hearing before the Hearing Officer on October 29, 2003, the final transcript shall be controlling.

IV. CONCLUSION

I have reviewed the Agreement and find that it promotes the general good of the state under the circumstances of this case. The Agreement resolves all remaining issues in this Docket and allows for an orderly exit from the Vermont local exchange market by OneStar. Under the above-described notice procedure, Vermont consumers of OneStar's service will have received adequate notice of the impending termination of their services and will have sufficient time to make alternative arrangements. I, therefore, recommend that the settlement agreement be approved. As all parties have agreed to the above-described Agreement, this recommendation is not adverse to any party. Therefore, I do not need to distribute this proposal for decision for comments, pursuant to 3V.S.A §811.

Dated at Montpelier, Vermont, this 10th day of November, 2003.

s/ John D. Burke
John D. Burke, Esq.
Hearing Officer

V. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The Hearing Officer's report and recommendation are accepted.
2. The settlement agreement is approved. OneStar shall provide notice to customers as described in the settlement agreement and shall cease providing local service in Vermont by November 24, 2003.
3. Under the process described above, OneStar's consumers will be deemed to have received adequate notice of the impending termination.

Dated at Montpelier, Vermont, this 10th day of November, 2003.

<u>s/ Michael H. Dworkin</u>)	
)	PUBLIC SERVICE
)	
<u>s/ David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/ John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: November 10, 2003

ATTEST: s/ Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.